

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SHALONDRA WADE,

Plaintiff,

v.

MAIN STREAM MOTORS, LLC,

Defendant.

Case # 15-CV-6556-FPG

DECISION AND ORDER

This action was commenced by Plaintiff Shalondra Wade on September 17, 2015, and alleges that Defendant Main Stream Motors, LLC, violated the Truth in Lending Act, 15 U.S.C. § 1638(a)(6) by failing to disclose the number, amount, and due dates of payments in connection with an auto loan Plaintiff received from Defendant on or about February 18, 2015. The proof of service filed with the Court reflects that a copy of the Summons and Complaint were personally served on Defendant Main Stream Motors, LLC, by serving managing member Rapheal Williams, at Main Stream Motors, LLC, 997 Broad Street, Suite A, Rochester, NY 14606, on October 1, 2015. ECF No. 3. The Summons informed Defendant that they were required to answer the Complaint within 21 days, and further warned Defendant that “if you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.” *Id.*

On March 31, 2016, Plaintiff requested that the Clerk of Court enter default against Defendant pursuant to Fed. R. Civ. P. 55(a), as more than 21 days had passed since Defendant was served, and Defendant had not responded to the Complaint in any fashion. ECF No. 4. The Certificate of Service attached to the request for entry of default indicates that a copy of the application was sent to Main Street Motors, LLC, c/o Rapheal A. Williams, 997 Broad Street, Suite A, Rochester, NY 14606. ECF No. 4-3. The Clerk of Court entered the requested default

on March 31, 2016. ECF No. 5. In addition, the Clerk of Court mailed a copy of the Entry of Default to Defendant at Main Street Motors, LLC, 997 Broad Street, Suite A, Rochester, NY 14606.

On May 3, 2016, Plaintiff moved for a default judgment against Defendant, since the Defendant had still not responded to the Complaint in any fashion. ECF No. 6. The Certificate of Service attached to the default judgment motion also indicates that a copy of the application was sent to Main Street Motors, LLC, c/o Rapheal A. Williams, 997 Broad Street, Suite A, Rochester, NY 14606. ECF No. 6-2.

Two weeks later, on May 17, 2016, the Court received a letter from Raphael A. Williams. ECF No. 7. That brief letter avers that Mr. Williams “have not received or yet to receive any legal documents from United States District Court, Buffalo Division. Any documents mails and received at 997 Broad Street, Rochester NY 14606 were signed off by office personel. (sic) Our office manager at this location is authorized to sign in my absence. I was recently made aware of: Case No. 6:15-cv-06556-FPG Shalondra Wade vs. Mainstream Motors, LLC. Please let me know of any action required on our part or any pending court dates.”

In response, Plaintiff argues that this letter further demonstrates that Main Street Motors was properly served, yet they have failed to answer the Complaint. *See* ECF No. 8.

By Decision and Order dated March 20, 2017, the Court noted that “Defendant has been extremely dilatory in defending this action.” ECF No. 9. Nevertheless, Defendant was given “a brief opportunity to attempt to correct their deficiencies in this case, if they can meet the applicable legal standards.” *Id.* The Court gave Defendant until April 21, 2017 to properly appear in this case, and failing that, the Court authorized Plaintiff to refile her Motion for Default Judgment. *Id.*

Defendant did not respond by the April 21, 2017 deadline, and to this day, has not contacted the Court in any fashion subsequent to the Court's March 20, 2017 Decision and Order.

Defendant has failed to respond to the Complaint, and the time to do so has expired. Further, as previously stated, the Clerk of Court entered default (ECF No. 5) against Defendant pursuant to Fed. R. Civ. P. 55(a), and Plaintiff has now re-moved (ECF No. 10) for default judgment against Defendant pursuant to Fed. R. Civ. P. 55(b).

Having reviewed the record of the case to date, and with no opposition from Defendant, Plaintiff's Motion for Default Judgment (ECF No. 10) is GRANTED. Plaintiff shall have judgment against Defendant Main Stream Motors, LLC in the amount of \$8,124.62, comprising statutory damages in the amount of \$4,669.62 in accordance with 15 U.S.C. § 1640(a)(2), \$3,000.00 in reasonable attorney's fees, and court costs in the amount of \$455.00 in accordance with 15 U.S.C. § 1640(a)(3).

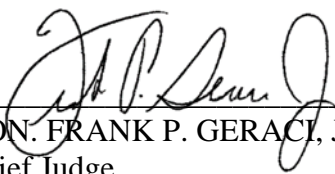
CONCLUSION

Plaintiff's Motion for Default Judgment (ECF No. 10) is GRANTED, and the Clerk of Court shall enter judgment in favor of Plaintiff and against Defendant in the amount of \$8,124.62.

The Clerk of Court shall close this case.

IT IS SO ORDERED.

DATED: August 31, 2017
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court